IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 2ND NOVEMBER 2006 / 11TH KARTHIKA 1928

WP(C).No. 30247 of 2004(A)

PETITIONER:

C.H. BALAKRISHNAN, S/O. DIVAKARAN,
CHANGAROTH HOUSE, P.O. PURATHUR, MALAPPURAM DIST.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENTS:

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1. THE WELFARE FUND INSPECTOR, KERALA
TODDY WORKERS WELFARE FUND BOARD,
MALAPPURAM.

2. THE DEPUTY TAHSILDAR (REVENUE RECOVERY)
TIRUR.

R1 BY SC SRI.A.K. JOHN
R2 BY G.P. SRI. S. DILEEP.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE PHOTOCOPY OF THE ORDER NO. M2/16.17/99-2000 DATED 29.12.2000 FOR THE YEAR 1999-2000

EXT.P2 TRUE PHOTOCOPY OF THE NOTICE NO. D4.9970-3/2001 PRI 2/2001-2002/TWWF DATED 19.6.2001 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT.

EXT.P3 TRUE COPY OF THE ORDER IN I.A.NO. 2302/2001 DATED 12.12.2002 OF THE MUNSIFF COURT, TIRUR.

EXT.P4 TRUE PHOTOCOPY OF THE ANNUAL STATEMENT OF TODDY WORKERS IN T.S.NO. 16

EXT.P5 TRUE PHOTOCOPY OF THE ANNUAL STATEMENT OF TODDY WORKERS IN T.S.NO. 17

RESPSONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 30247 OF 2004

Dated this the 2nd day of November, 2006

JUDGMENT

Petitioner is challenging recovery proceedings for recovery of arrears of Toddy workers Welfare Fund contribution. I heard counsel appearing for the petitioner and standing counsel for the first respondent. Even though petitioner's case is that licensee is another person, petitioner has not impleaded the licensee as a party. Toddy workers have given categoric evidence that the petitioner was carrying on business. It is common practice that licensee gets business done by engaging others with departmental approval. Petitioner has no case that the petitioner has not carried on business of running toddy shop as stated by the employees. Whether petitioner's role is a transferee, or manager,or agent, petitioner who actually carried on the business ought to have deducted contribution from the wages of the employees, made contribution from the side of the employer and remitted the same. On the face of it, I am satisfied that it is only a hide and seek game between the licensee and the petitioner, more so, when the licensee is not in

picture in this case. Therefore W.P. is filed without any bona fides and is therefore dismissed.

(C.N.RAMACHANDRAN NAIR)
Judge